

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 27-44 are pending in the application, with 27, 33 and 39 being the independent claims. Claims 27, 29, 33, 35 and 39-44 are sought to be amended to clarify the claimed invention. Applicants submit this amendment places the application in better condition for allowance or appeal and does not raise any new issues requiring further consideration or search. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 112***

The Examiner has rejected claims 27-44 under 35 U.S.C. § 112, second paragraph, as allegedly "being indefinite for failing to particularly point out and distinctively claim the subject matter which applicant regards as the invention." (See Office Action, page 2). Applicants respectfully disagree.

***Claims 27, 33 and 39***

Specifically, the Examiner has rejected claims 27, 33 and 39 under 35 U.S.C. § 112 by alleging that "receiving a first notification from a first computer" and "receiving a second notification from a second computer" are indefinite because it is not made explicitly clear in the claim language who or what gets notified. (See Office Action, page 2).

Although the Applicants believe that original claim 27 is sufficiently definite and requires no further amendments, Applicants have amended claim 27 to expedite prosecution. Claim 27 has been amended to recite "A computer-based method of scheduling executions of programs on a plurality of computers comprising the steps of, **at a scheduling computer:** (a) receiving ... (d) requesting ... according to the updated master schedule." The amendment sought to claim 27 makes more explicit that a scheduling computer, performing the steps of claim 27, receives the notifications. Such a scheduling computer can be any third computer that receives notifications from other first and second computers.

With respect to claim 33, the preamble of claim 33 clearly indicates that a scheduling computer receives the notifications. Claim 33 recites a "system ..., wherein the scheduling computer" comprises various means. Since the claim language makes clear that the scheduling computer comprises the means to receive notifications, it is clear that the scheduling computer in claim 33 is receiving the notifications.

As for claim 39, the preamble of claim 39 makes clear that a scheduling computer executing the computer program product of claim 39 receives the notifications. The preamble of claim 39 recites a "computer program product comprising a computer useable medium having computer readable program code means embedded in the medium for causing an application program to execute on a scheduling computer that schedules executions of programs on a plurality of computers comprising." Since the preamble clearly indicates that the computer readable program code means are to be executed on a computer, it is clear that a computer executing the computer program product of claim 39 is receiving the notifications.

***Claims 29, 35 and 41***

Furthermore, the Examiner has rejected claims 29, 35 and 41 under 35 U.S.C. § 112 by alleging that "receiving a result from the first computer" is indefinite because it is not made explicitly clear in the claim language who or what gets the result. (See Office Action, page 2).

Claim 29 depends from claim 27, and for at least the reasons stated above, it is clear that a scheduling computer, performing the steps of claim 29, receives the result from the first computer.

Likewise, claim 35 depends from claim 33, and for at least the reasons stated above, it is clear that a scheduling computer as recited in claim 33 receives the result from the first computer.

Since claim 41 depends from claim 39, it is clear, for at least the reasons stated above, that a scheduling computer executing the computer program product of claim 41 receives the result from the first computer.

Based on at least the reasons stated above, Applicants submit that the scope of claims 27-44 would be clear to one having ordinary level of skill in the art and therefore are sufficiently definite to meet the requirements of 35 U.S.C. §112, second paragraph. Reconsideration and withdrawal of this rejection is therefore respectfully requested.

***Rejections under 35 U.S.C. § 103***

The Examiner has rejected claims 27-29, 32-35, 38-41, and 44 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent 6,275,575 B1 to Wu (herein referred to as "Wu"). (See Office Action, page 3). Furthermore, the Examiner has

rejected claims 30-31, 36-37, and 42-43 under 35 U.S.C. 103(a) as allegedly being unpatentable over Wu in view of U.S. Patent 6,606,660 B1 to Bowman-Amuah (herein referred to as Bowman). (See Office Action, page 5). Applicants respectfully disagree.

Neither Wu nor Bowman, taken alone or in combination, teach or suggest the claimed invention. There are significant technical differences between the claimed invention, Wu, and Bowman. The claimed invention relates to the scheduling of program *executions* on a plurality of computers. In contrast, Wu relates to a system for coordinating telephone conferences and Bowman relates to a stream based communication system. No motivation or suggestion to combine Wu and Bowman is provided. Further, even if Wu and Bowman were combined, one would not arrive at the claimed invention.

In particular, Wu is related to a method and system of coordinating and initiating a telephone conference by remotely accessing a telephone conferencing system that includes both a coordinating server and a telephone conference server. (See Wu, Summary of the Invention). Wu teaches that a coordinating server can be remotely accessed using a networked device (i.e., a personal computer, a cellular phone, a PDA, etc) by a coordinator (i.e., a user) for the purpose of proposing a telephone conference. (See Wu, Summary of the Invention). Wu further teaches that through the networked device, contact lists, email, calendars, etc can be consulted with the assistance of software agents on the coordinating server to select participants and to propose times and durations for a telephone conference. (See Wu, Summary of the Invention). Once a telephone conference is determined, the coordinator may instruct the telephone

conference server to start the telephone conference at a future time. (See Wu, Summary of the Invention).

Bowman is related to a system, method, and product for providing a stream-based communication system. (See Bowman, Summary of the Invention). Bowman teaches that object based and non-object based systems can send and receive messages among each other by first translating messages into a shared format. (See Bowman, Summary of the Invention, FIG. 69). To facilitate communications among object based and non-object based systems, Bowman teaches that a shared format is defined on the interface code to send and receive messages. (See Bowman, Summary of the Invention).

Assuming for the sake of argument that a combination of Wu and Bowman is proper, neither Wu nor Bowman, taken alone or together, teach or suggest each and every element of the claimed invention.

Amended independent claim 27 is recited below, for the Examiner's convenience, as a representative claim:

27. (currently amended) A computer-based method of scheduling executions of programs on a plurality of computers comprising the steps of, at a scheduling computer:

- (a) receiving a first notification from a first computer upon the installation of a first program on the first computer;
- (b) receiving a second notification from a second computer upon the installation of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer;
- (c) updating a master schedule **based on the first and the second notifications**, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer; and
- (d) requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.

Neither Wu nor Bowman, for example, teach or suggest, "receiving a first notification from a first computer upon the installation of a first program on the first computer" and "receiving a second notification from a second computer upon the installation of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer." Additionally, neither Wu nor Bowman, for example, teach or suggest, "updating a master schedule **based on the first and the second notifications**, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer."

***Claim 27***

As for the Examiner's rejection of claim 27 as allegedly being unpatentable under 35 U.S.C. § 103(a) over Wu, claim 27 is patentable for at least the reason that the Examiner has failed to establish a *prima facie* case of obviousness. Although, the Examiner has acknowledged that Wu "fails to explicitly teach having notifications" and "fails to explicitly teach that the master schedule is updated" as recited in claim 27, the Examiner has alleged that including the feature of notifications and the feature of updating of the master schedule to the existing system of Wu would have been obvious to one of ordinary skill in the art at the time the invention was made. The Examiner, however, has not provided any such evidence. Instead, the Examiner has merely relied on his own recollection. Such a basis for concluding obviousness is an impermissible use of hindsight.

Furthermore, as stated above, Wu fails to teach or suggest each and every element of claim 27. For example, Wu fails to teach or suggest "updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer." Therefore, for at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 27, and allowance thereof.

***Claims 28, 29, and 32***

As for the Examiner's rejection of claims 28, 29 and 32 as allegedly being unpatentable under 35 U.S.C. § 103(a) over Wu, claims 28, 29 and 32 depend from independent claim 27 and are patentable for at least the reasons stated above, in addition to the elements, limitations, and/or features recited therein.

For example, with respect to claim 28, Wu does not teach or suggest "wherein step (c) further comprises indicating in the master schedule that the execution of the first program depends on a condition; and step (d) further comprises requesting the first computer to execute the first program upon the occurrence of the condition." Applicants disagree with the Examiner's allegation that column 8, lines 53-62 of Wu discloses these steps as recited in claim 28. Rather, the Examiner's citation to Wu teaches that different storage areas may be accessed to retrieve contact information for participants of a telephone conference. Nowhere in the Examiner's citation to Wu at column 8, lines 53-62 is there a teaching or a suggestion that an indication should be made in a master

schedule and that a request should be made to a first computer to *execute* the first program upon the occurrence of a condition.

Furthermore, as recited in amended claim 29, Wu does not teach or suggest, for example, "(1) requesting the first computer to execute the first program; (2) receiving a result from the first computer, *wherein the result is based on the execution of the first program*; and (3) requesting the second computer to execute the second program if the result meets the criterion."

In regards to claim 32, Wu does not teach or suggest, for example, "accepting at least one command from a user to define the updated *master schedule*." As recited in independent claim 27, from which claim 32 depends, Wu does not teach or suggest accepting a command from a user to define the updated master schedule "wherein the updated *master schedule* indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer."

For at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 28, 29 and 32, and allowance thereof.

### ***Claims 30 and 31***

With respect to the Examiner's rejection of claims 30 and 31 as allegedly being unpatentable under 35 U.S.C. § 103(a) over Wu in view of Bowman, claims 30 and 31 are patentable for at least the reason that the Examiner has failed to establish a *prima facie* case of obviousness for at least the reason that no motivation to combine Wu and Bowman is provided. For example, the Examiner has alleged in rejecting claim 30 that it

would have been obvious to one of ordinary skill in the art at the time the invention was made to include load balancing as taught by Bowman to the existing system of Wu to conserve resources and thereby increase the throughput of the system. (See Office Action, page 6). The Examiner has merely stated a conclusion about the possible effects of combining Wu and Bowman. Although the Examiner has alleged that one of ordinary skill in the art would have been motivated to increase the throughput of the system of Wu by applying load balancing, the Examiner has not pointed out any reference, for example, that shows such a teaching, suggestion, or motivation. Without such a showing, the Examiner is merely relying on his own recollection or conjecture about the desirability of joining Wu and Bowman. Such a basis for a finding of obviousness is impermissible use of hindsight. Likewise, the Examiner has failed to provide a teaching, suggestion, or motivation to combine Wu and Bowman with respect to claim 31.

Furthermore, even if the combination of Wu and Bowman is proper, Wu and Bowman do not teach or suggest each and every element of claims 30 and 31. For example, as recited in claim 30, neither Wu nor Bowman teaches or suggests "adjusting the updated master schedule based on the load of the first computer and the load of the second computer." Likewise, with respect to claim 31, neither Wu nor Bowman teaches or suggests, for example, "assigning a first priority to the first program and a second priority to the second program; and further comprising adjusting the updated master schedule based on the first priority and the second priority."

In addition, claims 30 and 31 depend from independent claim 27 and are patentable for at least the reasons stated above, in addition to the elements, limitations, and/or features recited therein. Therefore, Applicants respectfully request

reconsideration and withdrawal of the rejection of claims 30 and 31, and allowance thereof.

***Claims 33-44***

In regards to independent claims 33 and 39, since the Examiner has rejected these claims for the same reasons the Examiner rejected independent claim 27, claims 33 and 39 are patentable for at least the reasons stated above for claim 27 in addition to the elements, limitations, and/or features recited therein. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 33 and 39, and allowance thereof.

Furthermore, as the Examiner has rejected claims 34, 35, 38, 40, 41 and 44 using the same reasons the Examiner rejected claims 28, 29 and 32, claims 34, 35, 38, 40, 41 and 44 are patentable for at least the reasons provided above with respect to claims 28, 29 and 32. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 34, 35, 38, 40, 41, and 44, and allowance thereof.

Likewise, as the Examiner has rejected claims 36, 37, 42 and 43 using the same reasons the Examiner rejected claims 30 and 31, claims 36, 37, 42 and 43 are patentable for at least the reasons provided above with respect to claims 30 and 31. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 36, 37, 42 and 43, and allowance thereof.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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